

REMARKS

Reconsideration and allowance of the present application are respectfully requested. Claims 1-64 remain pending in the application. By the foregoing amendment, independent claims 1 and 27 have been amended to clarify features which encompass features already recited in claims 5 and 39, respectively. Claims 5 and 39 have been rewritten in independent form.

On page 2 of the Office Action, various objections are raised with respect to formalities of the claims. By the foregoing claim amendments, the specific objections raised have been addressed, such that withdraw of these objections is requested.

On page 3 of the Office Action, independent claims 1 and 37, along with various dependent claims, are rejected under 35 U.S.C. §103(a) as being unpatentable over U.S. Patent No. 6,662,231 (Drosset et al) and U.S. Patent No. 6,574,616 (Saghir). On pages 6-8 of the Office Action, various combinations of documents are relied upon in the rejection of dependent claims 2-3, 26-27 and 60-61.

More particularly, claims 2-3 are rejected as being unpatentable over the Drosset and Saghir patents in further view of U.S. Patent No. 5,616,876 (Cluts). Claims 26 and 60 are rejected as being unpatentable over the Drosset and Saghir patents in further view of U.S. Patent No. 4,611,996 (Stoner). Claims 27 and 61 are rejected as being unpatentable over Drosset and Saghir patents in further view of U.S. Patent No. 5,633,985 (Severson et al).

Applicants note with appreciation the indication on page 8 of the Office Action that claims 5-24 and 39-58 contain allowable subject matter. However, Applicant's independent claims 1 and 37 recite features which encompass the allowable subject

matter of claims 5 and 39, and which are neither taught nor suggested by the documents relied upon in the Office Action. For example, claim 1 is directed to a media player and media player interface which includes, among other features, a storage unit for storing media and media related data, said media related data including a selection probability for each item of a plurality of items of said media, wherein said selection probability is, at least in part, determined based on a time of selection of an item.

The present disclosure is directed to a media player and media player interface. In the exemplary Figure 1 embodiment, a media player 1002 includes media selection logic 1008 and media 1010. A media player interface 1016 of the exemplary Figure 1 embodiment includes a trigger 1018, such as a button or microphone to enable a user to initiate a selection by media selection logic 1008.

Media 1010 can include data such as encoded music and video or television and radio station listenings. Media related data 1024 includes descriptions of media 1010, such as artists names, album names, and other descriptive information 1028 for each item of the medium. Media related data 1024 can also include information such as an identifier of the most recent selected item of the media 1010 and the time and date of the selection.

Media related data 1024 can include a selection probability for each item of the media 1010 as described on page 4, lines 12 et seq. The selection probability defines the likelihood of selecting a particular item of media 1010.

As described on specification page 6, lines 12 et seq., media related data 1024 may include selection probability data 1030 for each item of media. Each time a selection is initiated by a user, media selection logic 1008 can update a selection

probability for each item of media related to the previous selection. The selection probability is, at least in part, determined based on a time of selection of an item. Any time-based information can be used, such as the information described throughout the specification and equivalents thereof. For example, when a second selection is initiated in less time than the duration of the item of media 1010 selected in a first selection, the selection probability of that item of media 1010 and each related item of media 1010 is reduced as discussed at specification page 6, lines 12-18.

The foregoing features are broadly encompassed by independent claims 1 and 37. For example, claim 1 is directed to a media player and a media player interface which includes, among other features, a storage unit for storing media and media related data, said media related data including a selection probability for each item of a plurality of items of said media, wherein said selection probability is, at least in part, determined based on a time of selection of an item. Claim 1 also recites media selection logic configured to, among other features, update said media related data in accordance with the selection of the item of media by the media selection logic. Claim 37 recites similar features.

As apparently recognized by the Examiner, such features are neither taught nor suggested by the Drosset and Saghir patents, regardless of whether these patents are considered individually or in the combination relied upon by the Examiner. The Drosset patent is directed to a subscriber-based audio service for providing an audio service to a client through a communication network. As disclosed in the Drosset patent, a user can subscribe to the service to access audio files.

For example, referring to Figure 1 of the Drosset patent, a client device 30, such as an MP3 reader, communicates with a server 80 and associated database 90 via a communication link 82. An authorized user may access and stream out audio data files through the communication network. The user can maintain customized play lists on the server for playing out preselected audio files. The server may also be configured to select audio files not previously selected by the user based on the user's past selection behavior or stated preferences. As recognized by the Examiner on page 3 of the Office Action, "Drosset, however, fails to disclose that the media related data includes a selection probability for each item of media". The Examiner therefore relies upon the Saghir patent.

The Saghir patent is directed to a stochastic visually based image query and retrieval system. As described in the Abstract, the image search and retrieval system of the Saghir patent is disclosed as searching and retrieving a desired image from a collection of images. A plurality of selection probability functions are provided. Software executing on a computer selects a plurality of images based upon the relationship between the profile for each image and the values of selection probability functions, and displays selected images. The software receives an indication of at least one chosen image and adjusts the value of each of the selection probability functions iteratively until the search is terminated. Each image profile can include a plurality of rankings having a plurality of characteristic functions, which represent a probability distribution function which describes the probability of an image being selected given user preferences within a category (see Abstract).

On page 4 of the Office Action, the Examiner combines features of Drosset's audio based service with image retrieval features of Saghir's image query and retrieval system, stating:

Accordingly, it would have been obvious to one of ordinary skill in the art at the time the invention was made to include Saghir's method of search and retrieval in the invention of Drosset. The combination would advantageously allow users to efficiently find and listen to music that is likely to be desirable to them as suggested by Saghir.

As recognized by the Examiner on page 8 of the Office Action, features set forth in claims 5 and 39, among other features, are recognized as being outside the scope of any such combination. For example, the Examiner states on page 8 of the Office Action that neither of these documents, considered alone or in combination, teach or suggest:

ascertaining an amount of time that lapses between first and second selections of the media and then adjusting the selection probability of the first item by reference to a ratio of said amount of time that lapses. The closest prior art, U.S. Patent No. 6,574,616 (Saghir), teaches adjusting the likelihood of selecting a particular item in response to the selection of other items with no regard to time constraints.

Claim 1 has been amended to clarify that such a feature is broadly encompassed. That is, claim 1 recites a media player and media player interface which includes, among other features, a storage unit for storing media and media related data, said media related data including a selection probability for each item of a plurality of items of said media, wherein said selection probability is, at least in part, determined based on a time of selection of an item. Such a feature is directed to using time of selection information to determine a selection probability, and therefore adjusting the selection probability based on an amount of time that lapses.

As such, claim 1 is allowable over the Drosset and Saghir patents. Because the remaining documents relied upon by the Examiner fail to overcome the deficiencies of the Drosset and Saghir patents, claim 1 is allowable.

Claim 37 recites features similar to those discussed with respect to claim 1 and is also considered allowable. All of the depending claims depend from either claims 1 or 37 and are also considered allowable.

All objections and rejections raised in the Office Action having been addressed, it is respectfully submitted that the present application is in condition for allowance. Prompt notification of same is earnestly solicited.

Respectfully submitted,

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